



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

201121037

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

MAR 02 2011

T:EP:RA:A2

Re:

Dear

This letter constitutes notice that conditional approval has been granted for your request for a modification of the Internal Revenue Service's ("Service") prior ruling approving a 7-year extension for amortizing the Plan's unfunded liabilities for the plan year beginning October 1, 2002. The unfunded liabilities are described in Code Section 412(b) and Section 302(b)(2)(B) of the Employee Retirement Security Act of 1974 ("ERISA"), prior to amendment by the Pension Protection Act of 2006 ("PPA '06"). The conditions of this approval are outlined in this letter. Your authorized representative accepted these conditions in a letter dated February 25, 2011.

The prior amortization extension was granted subject to the following conditions:

- (1) That the Plan maintain a credit balance that is at least as large as the accumulation (at the plan's valuation rate) of the amortized (at the Plan's valuation rate over a period of 15 years) differences between the amortization payments of the extended bases (amortized at the section 6621(b) rate) and the amortized payments of such bases had such bases been extended and amortized at the Plan's valuation rate;
- (2) That the Plan's funded ratio, calculated by dividing the Plan's market value of assets by its actuarial accrued liability (computed using the unit credit method and the Plan's assumptions as of October 1, 2002) remain:
  - a. no less than 67% for each valuation date from October 1, 2002 through October 1, 2005, inclusive;
  - b. no less than 70% for each valuation date from October 1, 2006 through October 1, 2008, inclusive;
  - c. no less than 75% for each valuation date from October 1, 2009 through October 1, 2011, inclusive; and

- d. for each valuation date subsequent to October 1, 2011, no less than 1% per annum greater than the floor funded ratio as of the previous valuation date; and
- (3) For each Plan Year that the extension remains in effect, beginning with the Plan Year beginning October 1, 2005, the Plan provides the Service with a copy of its actuarial valuation report.

The prior ruling letter provided that the approval would be retroactively null and void if any of these conditions were not met. However, the ruling indicated that the Service would consider modifications of these conditions, especially in the event that unforeseen circumstances beyond the control of the Plan might cause the actual experience of the Plan to fail the funded ratio condition. An example of such unforeseen circumstance would be market fluctuations which affect the value of the Plan's assets. This unforeseen circumstance happened during the plan years ending September 30, 2008, and September 30, 2009, with a general decline in asset values worldwide.

This approval (a) modifies conditions 2(c) and 2(d) above, (b) adds 2(e) through 2(g) and, (c) adds a new condition 4, effective October 1, 2009, as follows. No other conditions are modified.

- 2) The Plan's funded ratio, calculated by dividing the Plan's market value of assets by its actuarial accrued liability (computed using the unit credit method and the Plan assumptions as of October 1, 2009) is;
  - c. no less than 64% for each valuation date from October 1, 2009, through October 1, 2010, inclusive;
  - d. no less than 67% for each valuation date from October 1, 2011 through October 1, 2013, inclusive;
  - e. no less than 68% for each valuation date from October 1, 2014 through October 1, 2016, inclusive;
  - f. no less than 70% for each valuation date from October 1, 2017 through October 1, 2019, inclusive;
  - g. for each valuation date subsequent to October 1, 2019, no less than 3% greater than the required funded ratio of the previous valuation date, until a funded ratio of 100% is achieved as of October 1, 2029. (For example, because the floor funded ratio as of October 1, 2019, is 70%, the funded ratio must be at least 73% as of October 1, 2020, and 76% as of October 1, 2021).
- 4) Within 30 days after any amendment is made that is subject to section 412(c)(7) of the Code and section 302(c)(7) of ERISA as discussed below, or after any action is

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taken that has the effect of such an amendment, the plan sponsor must request a ruling approving the Plan's prospective amortization of unfunded liabilities and pay the applicable user fee.

If any one of the prior and amended conditions is not satisfied, the approval to extend the amortization periods of the unfunded liabilities would be null and void, retroactive to October 1, 2002. However, the Service will consider modifications of these conditions, especially in the event that unforeseen circumstances beyond the control of the Plan may cause the actual experience of the Plan to fail the funded ratio conditions. An example of such unforeseen circumstance would be market fluctuations which affect the value of the Plan's assets. Of course, any request for a modification would be considered another ruling request and would be subject to an additional user fee.

Please note that the address has changed for filing copies of the actuarial valuation report to the following:

IRS – EP Classification  
10 Metro Tech Center  
625 Fulton Street  
Brooklyn, NY 11201

Your attention is called to section 412(c)(7) of the Code and section 302(c)(7) of ERISA which describe the consequences that would result in the event the Plan is amended to increase benefits, change the rate in the accrual of benefits or to change the rate of vesting, while the amortization extension remains in place. Please note that any amendment that increases liabilities for a profit sharing plan or any other retirement plans (whether qualified or unqualified) maintained by the Trustees for the Plan (or a sponsor that consists of substantially the same persons as the Trustees for the Plan) and covering participants of the Plan to which this ruling applies, would be considered an amendment for purposes of section 412(c)(7) of the Code and section 302(c)(7) of ERISA. Similarly, the establishment of a new profit sharing plan or any other retirement plan (whether qualified or unqualified) maintained by the Trustees for the Plan (or a sponsor that consists of substantially the same persons as the Trustees for the Plan) and covering participants of the Plan to which this ruling applies, would be considered an amendment for purposes of section 412(c)(7) of the Code and section 302(c)(7) of ERISA.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

We have sent a copy of this letter to \_\_\_\_\_ to the \_\_\_\_\_ and to your authorized representatives pursuant to a power of attorney on file in this office.

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If you require further assistance in this matter, please contact

Sincerely yours,

A handwritten signature in black ink, appearing to read 'D. M. Ziegler', with a long horizontal flourish extending to the right.

David M. Ziegler, Manager  
Employee Plans Actuarial Group 2